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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,059	09/08/2006	Gabriele Stocchi	270155US6PCT	6280
22850 7590 12/12/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 12/12/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/530,059	Applicant(s) STOCCHI, GABRIELE	
	Examiner Timothy L. Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 04 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/29/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Borstelmann (4436124).

Regarding claim 7, the Borstelmann reference discloses a filling valve (see Figures 1-4) for aseptic filling of alimentary liquids comprising: a valve body (inherent; see column 3, lines 25-28); a filling mouth (defined by the end of conduit 1); a feeding conduit (1) configured such that a product stream to be filled into a container flows through the valve body out of the filling mouth; and an auxiliary conduit (3) configured to supply aseptic and/or inert gas and configured such that in an area near the filling mouth the product stream is isolated from the atmosphere by a coaxial flow of the aseptic and/or inert gas; wherein the auxiliary conduit is arranged and configured such that the valve body is surrounded coaxially by the auxiliary conduit thereby ensuring that the aseptic and/or inert gas completely surrounds the product stream in a circumference direction (see column 3, lines 28-35).

Regarding claim 8, wherein the valve body is configured for continuous outflowing of the aseptic and/or inert gas through the filling mouth for reducing a presence of oxygen in a top part of the container (see column 1, lines 50-60).

Regarding claim 9, wherein the filling valve is configured to maintain the aseptic conditions of the filling valve when the filling valve is closed would be inherent to the system.

Claims 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Vescovi et al. (EP 1323667 A1).

Regarding claims 7 and 8, the Vescovi reference discloses a filling valve (see Figure 1) for aseptic filling of alimentary liquids comprising: a valve body (3); a filling mouth (5); a feeding conduit (4) configured such that a product stream to be filled into a container flows through the valve body out of the filling mouth; and an auxiliary conduit (23) configured to supply aseptic and/or inert gas and configured such that in an area near the filling mouth the product stream is isolated from the atmosphere by a coaxial flow of the aseptic and/or inert gas; wherein the auxiliary conduit is arranged and configured such that the valve body is surrounded coaxially by the auxiliary conduit thereby ensuring that the aseptic and/or inert gas completely surrounds the product stream in a circumference direction (see column 3, line 56 through column 4, line 18).

Regarding claim 9, wherein the filling valve is configured to maintain the aseptic conditions of the filling valve when the filling valve is closed would be inherent to the system.

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Regarding claim 10, wherein the auxiliary conduit, which is fed during a filling operation by a flow of the aseptic and/or inert gas for assuring an aseptic condition of the filling process, is configured to be used for a re-circulation of a sanitizing fluid that is fed by the feeding conduit (see column 4, lines 35-43).

Allowable Subject Matter

Claim 12 is allowed.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art of record pertains to various dispensing apparatus having similar structure to that of the Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

12/4/08